



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

09/922,922

08/07/2001

Sharon Moshe

MOSHE=2

8988

1444

7590

09/14/2006

BROWDY AND NEIMARK, P.L.L.C.  
624 NINTH STREET, NW  
SUITE 300  
WASHINGTON, DC 20001-5303

EXAMINER

HAVAN, THU THAO

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/922,922

Applicant(s)

MOSHE, SHARON

Examiner

Thu Thao Havan

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Detailed Action**

### ***Drawings***

The Examiner accepts the drawings filed on August 7, 2001.

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-49** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan (US 5,963,916) in view of Minehart (US 5,915,734).

Re claim **1**, Kaplan teaches a method for promoting an artist (col. 3, lines 5-15;  
Kaplan discloses the kiosk station provides more effective promotional alternative which can

Art Unit: 3624

sample consumer opinions at the point-of-sale level), the method comprising the following steps:

(a) receiving personal data entered into a vending machine at a point of sale, said personal data including details of a specific recipient to whom computer readable data produced in the guise of said artist is to be sent (col. 15, lines 40-63; figs. 34-57; Kaplan discloses kiosk station permitting a user to enter personal information that the kiosk received to format the required information about an artist(s). He discloses in kiosk-based network user enters her unique identification in the form of the user's name and password in order to access the web site server and the correct purchase order is delivered to the right user), and

(b) using said personal data to format in real time...created in the guise of the artist and dedicated to the specific recipient so as to form a computer readable data string that may be dispensed by the vending machine without requiring real time interaction by the artist (col. 18, lines 1-10; fig. 56; Kaplan discloses personalize greeting card in figure 56 that permit a user to dedicate to the specific recipient in relation to the music/artist works without artist interaction).

However, Kaplan does not explicitly teach a personalized computer readable message. Nevertheless, both Kaplan and Minehart teach personalize greeting cards. Kaplan teaches personalize greeting cards in figure 56 when he discloses "Do you want to send a greeting with your order?... Greeting line one:... Greeting line two..." while Minehart discloses personalize greeting cards in figures 1-4. On the other hand, Minehart specifically discloses a personalized computer readable message when he discloses personalized greeting card and sound recording combination to a recipient

Art Unit: 3624

(col. 1, lines 34-43; col. 4, lines 3-15). Minehart discloses the purchaser places the selected sound recording in the holder of the selected card to thereby present a personalized, use assembly greeting card and sound recording combination. He discloses numerous greetings and messages can be provided on the various cards in the selection to offer a user choice. Thus, it would have been obvious to one of ordinary skill in the art to personalize computer readable message in a greeting card expressing a particular special note to a recipient as discloses in Minehart.

Re claims **2** and **18**, Kaplan does not explicitly teach merging the computer readable data string with a computer readable work of art in real time so as to form a composite computer readable data string that may be dispensed by the vending machine. Nevertheless, both Kaplan and Minehart teach personalize greeting cards. On the other hand, Minehart teaches merging the computer readable data string with a computer readable work of art in real time so as to form a composite computer readable data string that may be dispensed by the vending machine (col. 2, lines 37-62; figs. 2-4). He discloses a personalized greeting card-sound recording assembly to portray a message (i.e. readable data string) to a recipient in a vending machine. Minehart discloses the purchaser places the selected sound recording in the holder of the selected card to thereby present a personalized, use assembly greeting card and sound recording combination. He discloses numerous greetings and messages can be provided on the various cards in the selection to offer a user choice. Thus, it would have been obvious to one of ordinary skill in the art to personalize computer readable message in a greeting card expressing a particular special note to a recipient as discloses in Minehart.

Art Unit: 3624

Re claims **3** and **27**, Kaplan teaches computer readable work of art is stored in the vending machine (col. 4, lines 41-47). Kaplan discloses a kiosk that is a type of vending machine.

Re claims **4** and **30**, Kaplan teaches being carried out by a remote server coupled to the vending machine (col. 4, lines 51-67; col. 7, lines 55-60; fig. 2). Kaplan discloses a remote server when he discloses his system in an Internet web site wherein the kiosk is remotely local or anywhere else.

Re claims **5** and **31**, Kaplan teaches the following step carried out by the remote server: uploading the computer readable data string to the vending machine (col. 6, lines 16-48). Kaplan discloses uploading when he discloses the loader can house up to 60 CD ROM discs and is controlled by an external 8-bit microprocessor control system to permit high capacity storage on CD ROM discs in the kiosk body.

Re claims **6** and **32**, Kaplan teaches copying the computer readable data string to a portable data carrier for dispensing immediately by the vending machine (col. 6, lines 16-48). Kaplan discloses a loader storing music in that a copying has to take place in order for loading to take process.

Re claims **7** and **33**, Kaplan teaches transmitting the computer readable data string to a remote repository for access by the specific recipient (col. 4, lines 51-67). Kaplan discloses a network web site for allowing a remote user to preview a pre-selected portion of a pre-recorded music product.

Re claims **8** and **34**, Minehart teaches step (b) includes: i) obtaining a generic computer readable message created by said artist and including gaps for inserting

Art Unit: 3624

personalized computer readable data therein (col. 4, lines 15-62; figs. 1-4; in figures 1-4, Minehart illustrates the claimed limitation by disclosing pocket, insertion, and messages), and ii) inserting into the gaps respective computer readable data strings corresponding to said personalized computer readable data for personalizing the generic computer readable message for the specific recipient (col. 5, lines 25-60; Minehart discloses a customize card with a particular sound recording dedicated to a recipient).

Re claims **9** and **35**, Minehart teaches personalized computer readable message comprises pre-recorded computer readable strings (col. 6, lines 15-25; figs. 8 and 10). Minehart discloses pre-recorded songs in a personalized greeting card.

Re claims **10** and **36**, Minehart teaches personalized computer readable message comprises vocally synthesized computer readable strings (col. 6, lines 40-57; figs. 1-4). Minehart discloses the songs are played to the recipient when he received the personalized card.

Re claims **11** and **37**, Kaplan teaches computer readable data strings are vocally synthesized (col. 13, lines 19-24). Kaplan permits a user to listen to a sample of songs. Thus, the songs are being vocally synthesized in order for the user to listen to them.

Re claims **12** and **38**, Kaplan teaches computer readable data strings are at least partially pre-recorded (col. 5, lines 1-10). Kaplan discloses the user simply touches the name of the desired song on the screen, and, through the privacy of headphones, listens to a 30 second clip of the audio program. When the user is listen to only 30 second clip of the audio program then he is only listening to a partial pre-recorded song.

Re claims **13** and **39**, Kaplan teaches i) storing a plurality of computer readable data strings each pre-created by said artist and being selectable by a user (abstract; Kaplan discloses storage of discrete increments of pre-selected portions of music products for user selection and preview. After user selection, a programmable data processor selects the particular pre-recorded music product from data storage and then transmits that chosen music product over the network to the user for preview. Subscriber selection and profile data (i.e. demographic information) can optionally be collected and stored to develop market research data.), ii) allowing selection of respective ones of the computer readable data strings for insertion into the generic message (col. 18, lines 1-9; fig. 56; Kaplan teaches personalize greeting cards in figure 56 when he discloses "Do you want to send a greeting with your order?... Greeting line one:... Greeting line two..."), and iii) inserting the selected computer readable data strings into the generic computer readable message (col. 18, lines 1-9; fig. 56; Kaplan teaches personalize greeting cards in figure 56 when he discloses "Do you want to send a greeting with your order?... Greeting line one:... Greeting line two...").

Re claim **14**, Kaplan teaches a method for promoting an artist, the method comprising the following steps carried out by a vending machine at a point of sale (col. 3, lines 5-15; Kaplan discloses the kiosk station provides more effective promotional alternative which can sample consumer opinions at the point-of-sale level):

(a) receiving personal data including details relating to a specific recipient (col. 15, lines 40-63; figs. 34-57; Kaplan discloses kiosk station permitting a user to enter personal information that the kiosk received to format the required information about an artist(s). He discloses in kiosk-based network user enters her unique identification in the form of the user's



name and password in order to access the web site server and the correct purchase order is delivered to the right user. Also, Kaplan teaches personalize greeting cards in figure 56 when he discloses "Do you want to send a greeting with your order?... Greeting line one:... Greeting line two..."),

(b) uploading the personal data to a server coupled to the vending machine (col. 6, lines 16-48; Kaplan discloses uploading when he discloses the loader can house up to 60 CD ROM discs and is controlled by an external 8-bit microprocessor control system to permit high capacity storage on CD ROM discs in the kiosk body),

(c) receiving from the server in real time a computer readable data string... created in the guise of the artists and being dedicated to the specific recipient without requiring real time interaction by the artist (col. 18, lines 1-10; fig. 56; Kaplan discloses personalize greeting card in figure 56 that permit a user to dedicate to the specific recipient in relation to the music/artist works without artist interaction), and

(d) supplying the computer readable data string to the specific recipient (col. 18, lines 1-9; fig. 56; Kaplan teaches personalize greeting cards in figure 56 when he discloses "Do you want to send a greeting with your order?... Greeting line one:... Greeting line two...").

However, Kaplan does not explicitly teach a personalized computer readable message. Nevertheless, both Kaplan and Minehart teach personalize greeting cards. Kaplan teaches personalize greeting cards in figure 56 when he discloses "Do you want to send a greeting with your order?... Greeting line one:... Greeting line two..." while Minehart discloses personalize greeting cards in figures 1-4. On the other hand, Minehart specifically discloses a personalized computer readable message when he

Art Unit: 3624

discloses personalized greeting card and sound recording combination to a recipient (col. 1, lines 34-43; col. 4, lines 3-15). Minehart discloses the purchaser places the selected sound recording in the holder of the selected card to thereby present a personalized, use assembly greeting card and sound recording combination. He discloses numerous greetings and messages can be provided on the various cards in the selection to offer a user choice. Thus, it would have been obvious to one of ordinary skill in the art to personalize computer readable message in a greeting card expressing a particular special note to a recipient as discloses in Minehart.

Re claims **15** and **41**, Kaplan teaches a method as claimed in claims 1 and 14. Therefore the rationale applied in the rejection of claims 1 and 14 applies herein. In addition, Kaplan discloses a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine (col. 5, line 64 to col. 6, line 48; figs. 1-2). Kaplan discloses the core of the kiosk station is this digital compression technology, coupled with the storage and playback design (i.e. instructions required for playback).

Re claim **16**, Kaplan teaches a method as claimed in claim 1. Therefore the rationale applied in the rejection of claim 1 applies herein. In addition, Kaplan discloses a computer program product comprising a computer useable medium having computer readable program code (figs. 3-4). Kaplan discloses the touchscreen display can be programmed to accommodate multiple applications running under one environment on one system as demonstrated in FIGS. 3 and 4.

Re claim **17**, Kaplan teaches a method as claimed in claims 1 and 14. Therefore the rationale applied in the rejection of claims 1 and 14 applies herein. In addition, Kaplan

Art Unit: 3624

discloses a vending machine (col. 3, lines 5-15; col. 4, lines 41-47). Kaplan discloses the kiosk station provides more effective promotional alternative which can sample consumer opinions at the point-of-sale level. Also, Kaplan discloses a kiosk that is a type of vending machine.

Re claims **19** and **44**, Kaplan teaches a memory for storing the computer readable work of art (col. 4, lines 51-67). Kaplan discloses a memory for storing pre-selected portions of a plurality of different pre-recorded music products, the memory coupled to the processor.

Re claims **20** and **45**, Minehart teaches a memory for storing the personalized computer readable message (col. 6, line 47 to col. 7, line14). Minehart discloses memory when he discloses the sound recording display. A sound recording display has memory to replay the music back to recipient.

Re claims **21-22** and **46-47**, Kaplan teaches a communication port for coupling to a remote server (figs. 1-2; col. 4, lines 51-67; col. 7, lines 55-60). Kaplan discloses a central host server coupled to a communications network for retrieving and transmitting the pre-selected portion of the pre-recorded music product upon request by a remote user. Furthermore, Kaplan discloses a remote server when he discloses his system in an Internet web site wherein the kiosk is remotely local or anywhere else.

Re claims **23-24** and **48**, Kaplan teaches a copying unit for copying data representative of the computer readable data string to a portable data carrier for dispensing by the vending machine (col. 6, lines 16-48). Kaplan discloses a loader storing music in that a copying has to take place in order for loading to take process. Also, Kaplan discloses a kiosk that is a type of vending machine.

Art Unit: 3624

Re claims **25** and **49**, Minehart teaches a portable data carrier bearing thereon a personalized computer readable message that is created according to the method of claim 1 (col. 3, lines 48-65). Minehart discloses a CD cases which are a portal data carrier.

Re claims **26**, **40**, and **43**, Kaplan teaches a method as claimed in claims 1 and 14. Therefore the rationale applied in the rejection of claims 1 and 14 applies herein. In addition, Kaplan discloses a method for marketing when he discloses marketing promotions of artists (col.5, lines 1-25; fig. 2).

Re claim **28**, Kaplan teaches sponsor is an author of the computer readable work of art (col. 4, lines 51-67). Kaplan discloses the user is the one creating and selecting the different songs to incorporate into a particular work of art.

Re claim **29**, Kaplan teaches sponsor is a purchaser of the composite computer readable data string (col. 3, lines 5-15). The user purchases the work of art in readable data string (i.e. songs).

Re claim **42**, Kaplan teaches a method as claimed in claims 1, 16, and 28-29. Therefore the rationale applied in the rejection of claims 1, 16, and 28-29 applies herein. In addition, Kaplan discloses a computer program product comprising a computer useable medium having computer readable program code (figs. 3-4). Kaplan discloses the touchscreen display can be programmed to accommodate multiple applications running under one environment on one system as demonstrated in FIGS. 3 and 4.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jacobs, US 5,550,746

Simpson, US 6,453,300

Buckley et al., US 5,513,116

Davila et al., US 6,666,378

Bernard et al., US 5,918,213

Slotnick, US 5,983,200

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



Thu Thao Havan  
Art Unit: 3624  
9/8/2006